

Contract Title

**SUPPLY AND DELIVERY OF
ACTIVATED CARBON**

IFB NUMBER 00-031

two-step, Sealed Bidding Process



KING COUNTY

**Department of Natural Resources
Operations – East
Operations - West
Wastewater Treatment Plant**

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____ by and between King County, Washington, (hereinafter "County") and _____ (hereinafter "Contractor").

WITNESSETH:

WHEREAS, the County has caused contract documents for:

IFB No: 00-031

Contract Title: Supply and Delivery of Activated Carbon

to be prepared for certain work as described therein; and

WHEREAS, the Contractor has assured the County that it has the specialized expertise and experience necessary to properly provide the goods or services in a timely manner and that its Bid includes all of the functions and features required to provide the goods or services; and

WHEREAS, the County has accepted the Contractor's offer to provide the goods or services in accordance with the Contract's terms and specifications;

WHEREAS, by executing this Agreement, the Contractor represents that the waiver of the Contractor's immunity under industrial insurance, Title 51 RCW, as set forth in the Contract Documents was mutually negotiated by the parties;

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, the Contractor hereby agrees to supply the goods or services at the price and on the terms and conditions herein contained, and to assume and perform all of the covenants and conditions herein required of the Contractor, and the County agrees to pay the Contractor the Contract price provided herein for the supply of the goods or services and the performance of the covenants set forth herein.

THE FURTHER TERMS, CONDITIONS AND COVENANTS of the Contract are set forth in the following exhibit parts each of which is attached hereto and by this reference made a part hereof in the following order of precedence: 1) Change Orders; 2) Addenda to Invitation For Bid; 3) Invitation for Bid document which includes: Instructions to Bidders, Bid Evaluation and Contract Award, Standard Contractual Terms and Conditions, Ordering, Delivery and Specific Contractual Terms, Insurance Requirements, Technical Specifications, Attachments: **B)** Bid Submittal Form, **D)** Personnel Inventory Report, **E)** Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity, **G)** Current or Former King County Employee Disclosure Form and the Contractor's Bid.

COMPANY NAME:

KING COUNTY

ACCEPTED BY:

APPROVED BY:

Authorized signature

Signature

Name and Title (Print or Type)

Name and Title (Print or Type)

DATE ACCEPTED:

DATE APPROVED:

TABLE OF CONTENTS

AGREEMENT	II
TABLE OF CONTENTS	III
DEFINITION OF WORDS AND TERMS	VI
INVITATION FOR BIDS ADVERTISEMENT PAGE	IX
SECTION 1 - INSTRUCTIONS TO BIDDERS	1
1-1 <u>INTRODUCTION</u>	1
1-2 <u>PURPOSE OF BID</u>	1
1-3 <u>PRODUCT TESTING</u>	1
1-4 <u>TIME AND PLACE FOR SUBMISSION AND OPENING OF BIDS</u>	1
1-5 <u>POSTPONEMENT OF BID OPENING</u>	1
1-6 <u>BID CONTENTS</u>	1
1-7 <u>OTHER SUBMITTALS</u>	2
1-8 <u>BID SIGNATURE</u>	2
1-9 <u>ADDENDA</u>	2
1-10 <u>ALTERATIONS TO DOCUMENTS</u>	2
1-11 <u>INTERPRETATION OF BID AND CONTRACT DOCUMENTS</u>	2
1-12 <u>EXAMINATION OF BID AND CONTRACT DOCUMENTS</u>	2
1-13 <u>MODIFICATION OF BID</u>	3
1-14 <u>BID WITHDRAWAL</u>	3
1-15 <u>BID PRICING</u>	3
1-16 <u>PROMPT PAYMENT DISCOUNT</u>	3
1-17 <u>CONFLICTS OF INTEREST - CURRENT OR FORMER COUNTY EMPLOYEES</u>	3
1-18 <u>PUBLIC DISCLOSURE OF BIDS</u>	4
1-19 <u>PROTEST PROCEDURES</u>	4
1-20 <u>SUPPORTED EMPLOYMENT PROGRAM</u>	5
1-21 <u>NON-DISCRIMINATION AND AFFIRMATIVE ACTION</u>	6
1-22 <u>DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS</u>	9
SECTION 2 - BID EVALUATION AND CONTRACT AWARD	11
2-1 <u>EVALUATION OF BIDS</u>	11
A. <u>Responsiveness</u>	11
B. <u>Responsibility</u>	11
C. <u>Financial Resources</u>	12
D. <u>Financial Reporting</u>	12
2-2 <u>COLLUSION</u>	12
2-3 <u>REJECTION OF BIDS</u>	12
2-4 <u>PROCEDURES WHEN ONLY ONE BID IS RECEIVED</u>	13
2-5 <u>CONTRACT AWARD</u>	13
SECTION 3 - STANDARD CONTRACTUAL TERMS AND CONDITIONS	14
3-1 <u>ADMINISTRATION</u>	14
3-2 <u>CHANGE ORDERS</u>	14
3-3 <u>COST/PRICE ANALYSIS</u>	14
3-4 <u>TERMINATION FOR CONVENIENCE/DEFAULT/NON-APPROPRIATION</u>	15
A. <u>Termination for Convenience</u>	15

B.	<u>Termination for Default</u>	15
C.	<u>Termination for Non-Appropriation</u>	15
3-5	<u>FORCE MAJEURE</u>	16
3-6	<u>PAYMENT PROCEDURES</u>	16
A.	<u>Invoices</u>	16
B.	<u>Payment</u>	16
3-7	<u>WASHINGTON STATE SALES TAX</u>	16
3-8	<u>TAXES, LICENSES, AND CERTIFICATE REQUIREMENTS</u>	17
3-9	<u>PRICE WARRANTY</u>	17
3-10	<u>DEFECTIVE WORK, MATERIALS OR SERVICES</u>	17
3-11	<u>NO WAIVER OF WARRANTIES AND CONTRACT RIGHTS</u>	17
3-12	<u>ASSIGNMENT</u>	17
3-13	<u>INDEMNIFICATION AND HOLD HARMLESS</u>	17
3-14	<u>APPLICABLE LAW AND FORUM</u>	18
3-15	<u>CONFLICTS OF INTEREST AND NON-COMPETITIVE PRACTICES</u>	18
A.	<u>Conflict of Interest</u>	18
B.	<u>Contingent Fees and Gratuities</u>	18
3-16	<u>DISPUTES, CLAIMS AND APPEALS</u>	19
3-17	<u>MEDIATION AND ARBITRATION</u>	19
3-18	<u>RETENTION OF RECORDS, AUDIT ACCESS AND PROOF OF COMPLIANCE WITH CONTRACT</u>	19
A.	<u>Retention of Records</u>	19
B.	<u>Audit Access</u>	20
C.	<u>Proof of Compliance with Contract</u>	20
3-19	<u>OTHER PUBLIC AGENCY ORDERS</u>	20
SECTION 4 - ORDERING, DELIVERY AND SPECIFIC CONTRACTUAL TERMS		21
4-1	<u>TYPE OF CONTRACT</u>	21
4-2	<u>CONTRACT PERIOD</u>	21
4-3	<u>CONTRACT VALUE</u>	21
4-4	<u>PRICING</u>	21
4-5	<u>PROMPT PAYMENT DISCOUNT</u>	21
4-6	<u>SHIPPING CHARGES</u>	22
4-7	<u>DELIVERY REQUIREMENTS</u>	22
4-8	<u>PACKING SLIPS</u>	22
4-9	<u>DELIVERY POINTS</u>	22
4-10	<u>GUARANTEE/WARRANTY</u>	22
4-11	<u>HAZARDOUS CHEMICAL COMMUNICATION</u>	23
4-12	<u>INDUSTRIAL AND HAZARDOUS WASTE</u>	24
4-13	<u>PRODUCT SAFETY</u>	24
4-14	<u>PROHIBITION ON ASBESTOS-CONTAINING PRODUCTS</u>	24
4-15	<u>PRODUCT RETURN</u>	24
4-16	<u>USE REPORT</u>	24
4-17	<u>SEVERABILITY</u>	24
SECTION 5 - INSURANCE REQUIREMENTS		25
5-1	<u>EVIDENCE AND CANCELLATION OF INSURANCE</u>	25
5-2	<u>INSURANCE REQUIREMENTS</u>	25
SECTION 6 - SPECIFICATIONS		29
6-1	<u>GENERAL</u>	29
6-2	<u>PROCESS</u>	29
6-3	<u>PRODUCT TESTING</u>	29
6-4	<u>PRODUCT SPECIFICATION</u>	29
6-5	<u>QUANTITY</u>	30

ATTACHMENT B.....	32
SCHEDULE A	34
SCHEDULE B.....	35
SCHEDULE C.....	36
SCHEDULE D	37

ATTACHMENTS:

- A. No Bid Response
- B. Bid Submittal Form
- D. Personnel Inventory Report
- E. Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity
- G Current or Former King County Employee Disclosure Form

DEFINITION OF WORDS AND TERMS

Words and terms shall be given their ordinary and usual meanings. Where used in the contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance: Formal action of the County in determining that the Contractor's work has been completed in accordance with the contract.

Act of Nature: A cataclysmic phenomenon of nature, such as an earthquake, flood or cyclone.

Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the contract documents issued by the County during the Bid period and prior to the date and time established for submittal of Bids.

Bidder: The firm presenting an offer to the County in response to an Invitation For Bid.

BPO: Blanket Purchase Order (BPO). A contract for goods and/or services that establishes terms and conditions, prices and support requirements, but is not an order. Purchase orders will be issued for specific goods/services at established prices for delivery under the terms of the referenced BPO.

Buyer: Individual designated by King County to conduct the contract solicitation process, draft and negotiate contracts, resolve contractual issues and support the Project Manager during contract performance.

Change Order: Written order issued by the County, with or without notice to sureties, making changes in the work within the scope of this contract.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between the County and the Contractor for completion of the services or work under the Contract.

Contract Administrator: The individual designated by the County to administer the contract and be the contractor's primary point of contact. The contract administrator will approve orders, receipts, invoices and document the contractor's performance. This person may be the project manager.

Contract Price: Amount payable to the Contractor under the terms and conditions of the contract for the satisfactory performance of the services under the contract.

Contract Period: The period and time during which the Contractor shall perform the services or work under the contract.

Contract Time: Number of calendar days and/or the intermediate and final completion dates stated in the contract documents for the completion of the work specified herein.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with the County for the performance of services or work under the contract.

Contractor's Representative: The individual designated in writing by the Contractor to act on its behalf under this contract.

Cost Analysis: Cost analysis means the review and evaluation of the separate cost elements and proposed profit of the Bidder's cost or pricing data. Cost analysis is the application of judgment utilizing criteria to project from the data to the estimated costs in order to form an opinion on the degree to which the proposed costs represent what the contract should cost, assuming reasonable economy and efficiency.

Day: Calendar day.

Executive: King County Executive

IFB: Invitation For Bid, the solicitation document presenting the terms and conditions that will become the contract when the County accepts a bid.

KCC: King County Code.

Month: The period commencing on the first day of a calendar month and ending on the first day of the next succeeding calendar month.

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Price Analysis: Price analysis means the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.

Project Manager: The individual designated by the County to manage the project. This contract may be part of a larger County project.

Proposed Work Change (PWC): A written document issued by the Project Manager, or his/her designee, to the Contractor identifying contemplated changes in the work and requesting a price estimate from the Contractor; such a document shall not be interpreted or construed to constitute a change order.

Provide: Furnish without additional charge.

RCW: The Revised Code of Washington.

Reference Documents: Reports, specifications, and drawings which are available to Bidders for information and reference in preparing Bids but not as part of this contract.

Shall or Will: Whenever used to stipulate anything, shall or will means mandatory by either the Contractor or the County, as applicable, and means that the Contractor or the County, as applicable, has thereby entered into a covenant with the other party to do or perform the same.

Specifications or Technical Specifications: A Section of the solicitation consisting of written descriptions of services to be performed or of the technical requirements to be fulfilled under this contract.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the work covered by this contract.

Submittals: Information which is submitted to the project manager in accordance with the technical specifications.

Subsection: For reference or citation purposes, subsection shall refer to the paragraph, or paragraphs, called out by part, section and alphanumeric designator.

Work: Everything to be done and provided for the fulfillment of the contract.

INVITATION FOR BIDS ADVERTISEMENT PAGE

IFB NUMBER 00-031

THE SUPPLY AND DELIVERY OF ACTIVATED CARBON

Bid Opening Date: September 28, 2000.

This IFB is being conducted in a two-step, sealed bidding process. The first step is the testing of vendors product, activated carbon, per specifications identified in SECTION 7 - SPECIFICATIONS. The second step, only firms found technically qualified will be invited to submit sealed bids as identified in Attachment B, Bid Submittal Form. Award will then made to the lowest, responsive and responsible bidder.

First Step: Vendor samples of activated and caustic-impregnated carbon for testing will be accepted by King County (hereinafter "County"), at the Department of Natural Resources, Wastewater Treatment Division, 1200 Monster Road SW, Renton, WA 98055, Attention: Steven Yee, until the end of business day August 25, 2000. Testing should be completed by September 8, 2000.

Second Step: September 11, 2000 only those firms that have been found to be technically qualified in the first step, testing, will be invited via an addendum to submit sealed bids for the supply and delivery of activated carbon. Sealed bids will be accepted by King County (hereinafter "County"), at its Procurement Services Division, Exchange Branch Office, Eighth Floor, Exchange Building, 821 Second Avenue, M/S-EXC-FI-0871, Seattle, Washington, 98104-1598 until 2:00 p.m. local time on Bid opening date September 28, 2000. The Invitation for Bid (IFB) document may be obtained at no cost by contacting the undersigned at (206) 684-1392 or in person at the above address.

This IFB is available on the Internet at www.metrokc.gov/finance/procure/exch/html/exch.htm, look for IFB 00-031 Persons who obtain the Document from the Internet must inform Linda Machno that they have received the document. If they fail to inform Linda Machno, they will not be notified of Addenda as issued. All Addenda must be referenced in the Bid Submittal.

The County reserves the right to reject any Bid, any portion of any Bid, or all Bids submitted. The County further reserves the right to waive informalities and irregularities.

This information is available on request in accessible formats for people with disabilities by calling (206) 684-2046 or (206) 689-3413 (TDD).

King County

Buyer's Name: Linda Machno
Buyer

Phone No: (206) 684-1392
Fax No : (206) 684-1470
E-Mail address: linda.machno@metrokc.gov

Dates of Publication: August 10, 2000

Cost Center No: 4741
Project Number: _____

SECTION 1 - INSTRUCTIONS TO BIDDERS

1-1 Introduction

This contract calls for the supply and delivery of activated carbon (both caustic impregnated and non-impregnated) for use in the odor control units at King County Department of Natural Resources, Operations-East and Operations-West wastewater treatment plants and their associated off-site facilities.

1-2 Purpose of Bid

This Invitation for Bid will result in a contract agreement for an indefinite quantities contract. By signing this Contract, King County does not guarantee that the Contractor will receive any orders for the goods or services. In addition, King County is not giving the Contractor the exclusive right and legal obligation to fill all of the County's needs for the goods and services described in this Contract. King County reserves the right to contract with any other entity for the goods or services described herein.

1-3 Product Testing

As step one of this IFB, vendors are requested to submit samples of activated carbon as identified in SECTION 6 – TECHNICAL SPECIFICATIONS, by the end of the business day August 25, 2000. Only those firms whose product is found to be technically qualified will be invited via an addendum, to submit sealed bids for the second step.

1-4 Time and Place for Submission and Opening of Bids

Sealed Bids shall be submitted by September 28, 2000 at 2:00 p.m. local time to the Procurement and Contract Services Division, Exchange Branch Office of King County (hereinafter "County"), Eighth Floor, Exchange Building, 821 Second Avenue, Suite 10, M/S-EXC-FI-0871, Seattle, Washington 98104-1598, for the goods and/or services described herein. The sealed Bid must be received by the County's Procurement and Contract Services Division, no later than the time and date specified for consideration. The Bidder accepts all risks of late delivery of mailed Bids or of misdelivery regardless of fault. Bids properly and timely submitted will be publicly opened.

If a document holder chooses not to submit a Bid, the document holder is requested to complete and return the "No Bid Response Form" included in this IFB as Attachment A by the date and time indicated above.

1-5 Postponement of Bid Opening

The County reserves the right to postpone the date and time for submitting Bids by announcing same at any time prior to the date and time established for Bid submittal in this IFB.

1-6 Bid Contents

The Bid will consist of the completed:

Agreement

Attachment B - Bid Submittal Form and Schedules A-D.

The completed Bid Submittal Form and all required additional documents shall be placed in a sealed envelope with the enclosed sticker filled out and attached to the outside of the envelope.

1-7 Other Submittals

When notified you are the apparent low, responsive, responsible bidder, the other required attachments and documents shall be submitted:

Attachment D - Personnel Inventory Report – Complete, sign and submit.

Attachment E - Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity – Complete, sign and submit.

Attachment G Current or Former King County Employee Disclosure Form

Certificate of Insurance and Endorsements – Have Insurance Agent mail to Buyer.

1-8 Bid Signature

Each Bid shall be signed by the Bidder or the Bidder's authorized representative and include the Bidder's address. If the Bid is made by an individual, the name, signature and post office address must be shown; if made by a partnership or joint venture, the name and post office address of the partnership or joint venture and the signature of at least one of the general partners or authorized joint venture partners must be shown; if made by a corporation, the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation and the name and title of the authorized person who signs on behalf of the corporation must be shown.

1-9 Addenda

Each Bid Submittal Form ("Attachment B") shall include acknowledgment of receipt and review of all Addenda issued during the bidding period.

1-10 Alterations to Documents

Any addition, limitation or provision made with or attached to the Bid may render it non-responsive and/or irregular and be cause for its rejection. Alteration by erasure or interlineations must be explained or noted over the signature of the Bidder. No oral, telegraphic, telephonic or facsimile bids or modifications will be considered.

1-11 Interpretation of Bid and Contract Documents

No oral interpretations as to the meaning of the IFB will be made to any Bidder. Requests for a written interpretation shall be made in writing and delivered to the County's Procurement Management Services at the address indicated the Invitation for Bids advertisement page at least 7 calendar days before the date established for submitting Bids. Any interpretation deemed necessary by the County will be in the form of an addendum to the IFB and when issued will be delivered as promptly as is practicable to all parties to whom the IFB has been issued. All addenda shall become part of the IFB and any subsequently awarded contract. Bidders shall not rely upon any oral statements or conversations, whether at the pre-bid conference, if any, or otherwise, they may have with County employees or third parties regarding the IFB.

1-12 Examination of Bid and Contract Documents

The submission of a Bid shall constitute an acknowledgment upon which the County may rely that the Bidder has thoroughly examined and is familiar with the IFB, including any work site identified in the IFB, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Bidder to receive or examine such documents, work sites, statutes, regulations, ordinances or resolutions

shall in no way relieve the Bidder from any obligations with respect to the Bidder's Bid or to any contract awarded pursuant to this IFB. No claim for additional compensation will be allowed which is based upon a lack of knowledge or misunderstanding of this IFB, work sites, statutes, regulations, ordinances or resolutions.

1-13 Modification of Bid

A modification of a Bid already received will be considered only if the modification is received prior to the time and date established for submitting Bids. All Bid modifications shall be made in writing, executed and submitted in the same form and manner as the original Bid.

1-14 Bid Withdrawal

Except for claims of error granted by the County, no Bidder may withdraw a Bid after the date and time established for submitting Bids, or before the award and execution of a contract pursuant to this IFB, unless the award is delayed for a period exceeding the period for bid effectiveness. The County reserves the right to request a Bidder or Bidders to grant an extension of such effective period.

Requests to withdraw a Bid due to error must be submitted in writing along with supporting evidence for such claim including cost breakdown sheets. Requests must be delivered to the County within forty-eight hours after the opening of Bids. The County reserves the right to require the submittal of other Bid records or information as the County may deem necessary to evaluate the request. Any review by the County of a Bid and/or any review of such a claim of error, including supporting evidence, creates no duty or liability on the County to discover any other Bid error or mistake, and the sole liability for any Bid error or mistake rests with the Bidder.

1-15 Bid Pricing

Prices shall include everything necessary for the prosecution and completion of the contract including but not limited to furnishing all materials, equipment, supplies, tools, plant and other facilities and all management, supervision, labor and service, except as may be provided otherwise in this IFB. Prices quoted on the Bid Submittal Form shall include all freight charges. Washington State sales/use taxes and federal excise taxes shall not be included in the Bid price. The County will pay any Washington State sales/use taxes applicable to the contract price or tender an appropriate amount to the Contractor for payment to Washington State. The County is exempt from federal excise taxes. All other government taxes, duties, fees, royalties, assessments and charges shall be included in the Bid price. The Bid shall remain in effect for ninety (90) calendar days after final Bid submittal date and time. In the event of a discrepancy between the unit price and the extended amount for a Bid item, the unit price will govern. The prices, corrected for mathematical errors, shall be used as the amount of the Bid for evaluation and award purposes.

1-16 Prompt Payment Discount

Bids offering a prompt-payment discount for payments made within twenty (20) calendar days will be evaluated at the discounted price.

1-17 Conflicts of Interest - Current or Former County Employees

The County seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former County employees. Consistent with this policy, no current or former County employee may contract with, influence, advocate, advise, or consult with a third party about a County transaction, or assist with the preparation of Bids submitted to the County while employed by the County or within one year after leaving the County's employment, if he/she was substantially involved in determining the work to be done or process to be followed while a County employee.

All bidders, proposers, vendors, consultants or contractors who anticipate contracting with the County must identify at the time of offer, such current or former County employees involved in preparation of bids/proposals or the anticipated performance of the work or services if awarded the Contract. This information should be included in Attachment G - "Current or Former County Employee Disclosure Form." Failure to identify former County employees involved in this transaction may result in the County's denying or terminating this contract. In addition, after award, the Contractor is responsible for notifying the County's project manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

1-18 Public Disclosure of Bids

Bids submitted under this IFB shall be considered public documents, and with limited exceptions, Bids which result in the award of contract will be available for inspection and copying by the public.

If a Bidder considers any portion of its Bid to be protected under the law, the Bidder shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, the County will notify the Bidder of the request and allow the Bidder five (5) days to take whatever action is necessary to protect its interests. If the Bidder fails or neglects to take such action within said period, the County will release the portions of the Bid deemed subject to disclosure. By submitting a Bid, the Bidder assents to the procedure outlined in this paragraph and shall have no claim against the County on account of actions taken under such procedure.

1-19 Protest Procedures

A. Form of Protest: In order to be considered, a Protest shall be in writing, addressed to the Manager of the King County Procurement and Contract Services Division of the Department of Finance, and include:

1. The name, address, and phone number of the Bidder or Proposer protesting, or the authorized representative of the Bidder or Proposer;
2. The Invitation For Bid or Invitation To Bid ("IFB" or "ITB") or Request for Proposals ("RFP") Number and Title under which the Protest is submitted;
3. A detailed description of the specific grounds for protest and any supporting documentation. It is the responsibility of the Protesting Bidder/Proposer to supplement its Protest with any subsequently discovered documents prior to the Manager's decision;
4. The specific ruling or relief requested; and
5. Evidence that all persons with a financial interest in the procurement have been given notice of the Protest or if such persons are unknown, a statement to that effect.

B. Who May Protest.

1. Protests based on specifications. Any prospective Bidder/Proposer.
2. Protests following Bid submittal. Any Bidder or Proposer submitting a response to an IFB or ITB or RFP showing a substantial financial interest in the solicitation or award of any Contract.

- C. Time to Protest. Protests based on specifications or other terms in the RFP, ITB, or IFB document which are apparent on the face of said document must be received by the County no later than ten calendar days prior to the date established for submittal of Bids/Proposals. Protests based on other circumstances must be received by the County within five calendar days after the protesting Bidder/Proposer knows or should have known of the facts and circumstances upon which the Protest is based. In no event shall a Protest be considered if all bids are rejected or after award of the Contract.
- D. Determination of Protest. Upon receipt of a timely written Protest, the Procurement Manager shall investigate the Protest and shall respond in writing to the Protest prior to the award of contract. Except as provided below, the decision of the Procurement Manager shall be final.
- E. Reconsideration of Manager's Decision. A financially interested Bidder or Contractor may request that a Manager's adverse decision be reviewed by the Director of the King County Department of Finance ("Director") on a reconsideration basis only. The only justifications for reconsideration are (1) new data, relevant to the underlying grounds for protest and unavailable at the time of the Protest to the Manager; or (2) the Manager made an error of law or regulation. The following procedures shall be followed for a reconsideration of the Manager's decision:
1. Form of Request for Reconsideration. In order to be considered, a Request for Reconsideration must be filed with the Director in writing and include:
 - i. Name, address, and telephone number of the person protesting or their authorized representative;
 - ii. A copy of the written decision of the Manager; and
 - iii. Justification for a reconsideration by the Director, including all pertinent facts and law on which the Bidder or Proposer is relying.
 2. Time for filing Request for Reconsideration. The financially interested Bidder or Proposer must file the Request for Reconsideration no later than five calendar days of receiving the Procurement Manager's decision.
 3. Review of Manager's Decision. Upon receipt of a Request for Reconsideration, the Director or his/her designee shall review (1) the information submitted to and reviewed by the Manager and (2) the decision of the Manager, and shall thereafter issue a final determination regarding the Request for Reconsideration. No other information will be reviewed unless the basis for the request for reconsideration is new data.
- F. Failure To Comply: Failure to comply with the procedures set forth herein may render a Protest untimely or inadequate and may result in rejection thereof by the County.

1-20 Supported Employment Program

King County encourages the creation of supported employment programs for developmentally and/or severely disabled individuals. The County itself has such a program and is actively seeking to do business with those contractors and consultants which share this employment approach. If your firm has such a program, or intends to develop such a program during the life of this contract, please submit documentation supporting this claim with your bid. If you have questions, or need additional information, please contact the King County ADA Coordinator, (206) 296-7706 or the Department of Finance M/WBE Compliance Supervisor, (206) 689-4593.

PART 1: NON-DISCRIMINATION AND AFFIRMATIVE ACTION

- A. KCC Chapters 12.16 and 12.18 are incorporated by reference as if fully set forth herein and such requirements apply to this Contract; provided however, that no specific levels of utilization of minorities and women in the workforce of the Contractor shall be required, and the Contractor is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices; and provided further that, notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents shall continue to apply.
- B. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Contract.
- C. The Contractor will, prior to the commencement of the work and during the term of this Contract, furnish the County, upon request and on such forms as may be provided by the County, a report of the affirmative action taken by the Contractor in implementing the terms of this section. The Contractor will permit access by the County to the Contractor's records of employment, employment advertisements, application forms, other pertinent data and records related to this Contract for the purpose of monitoring and investigation to determine compliance with these requirements.
- D. The Contractor will implement and carry out the obligations contained in its Affidavit and Certificate of Compliance regarding equal employment opportunity. Failure to implement and carry out such obligations in good faith may be considered by the County as a material breach of this Contract and grounds for withholding payment and/or termination of the Contract and dismissal of the Contractor.
- E. The Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.
- F. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall engage in unfair employment practices. It is an unfair employment practice for any:
 - 1. Employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment;
 - 2. Employment agency or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;
 - 3. Employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to

employment or membership, or to use any form of application therefor, which indicates any discrimination unless based upon a bona fide occupation qualification;

4. Employment agency to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;
5. Employer, employment agency or a labor organization to retaliate against any person because this person has opposed any practice forbidden by KCC Chapter 12.18 or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of KCC Chapter 12.18;
6. Publisher, firm, corporation, organization or association printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of KCC Chapter 12.18.030.C., or to segregate and separately designate advertisements as applying only to men and women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification; and/or
7. Employer to prohibit any person from speaking in a language other than English in the workplace unless:
 - a. The employer can show that requiring that employees speak English at certain times is justified by business necessity, and
 - b. The employer informs employees of the requirement and the consequences of violating the rule.

PART 2: REQUIRED SUBMITTALS

- A. All Contractors entering into a contract or agreement with King County valued at \$25,000 or more under this Invitation for Bids shall, after the Bidder receives written notice of selection, submit the following:
 - 1) A Personnel Inventory Report on the form provided by the County.
 - 2) An Affidavit of Compliance demonstrating the Contractor's commitment to comply with the provisions of KCC Chapter 12.16.
- B. The County will not execute any agreement or contract without prior receipt of fully executed forms listed in subparagraph A above.
- C. Assistance with the requirements of this Section and copies of Chapters 12.16 and 12.18 are available from the Minority and Women's Business Enterprise and Contract Compliance Division, phone (206) 684-1330.

PART 3: NONDISCRIMINATION IN SUBCONTRACTING PRACTICES

- A. Compliance with Initiative 200: In accordance with the provisions of Washington Initiative 200, no County Minority and Women Business (M/WBE) utilization requirements shall apply to this Contract. No minimum level of M/WBE subcontractor participation or purchase from M/WBE certified vendors is required and no preference will be given by the County to a bidder or proposer for their M/WBE utilization or M/WBE status. Provided, however, that any affirmative

action requirements set forth in any federal regulations or statutes included or referenced in the Contract documents will continue to apply.

- B. Non-Discrimination: During the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontracts and suppliers, the Contractor shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.
- C. Record-Keeping Requirements: The Contractor shall maintain, for at least 12 months after completion of all work under this contract, records and information necessary to document its level of utilization of M/WBEs and other businesses as subcontracts and suppliers in this contract and in its overall public and private business activities for the same period. The Contractor shall also maintain, for at least 12 months after completion of all work under this contract, all written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate on this Contract. Contractor shall make such documents available to the County for inspection and copying upon request. If this contract involves federal funds, Contractor shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.
- D. Open Competitive Opportunities: King County encourages the utilization of minority owned businesses ("MBEs") and women-owned businesses ("WBEs")(collectively, "M/WBEs") in County contracts. The County encourages the following practices to promote open competitive opportunities for small businesses including M/WBEs:
- 1) Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to provide project information and to inform M/WBEs and other firms of contracting and subcontracting opportunities.
 - 2) Placing all qualified small businesses attempting to do business in King County, including M/WBEs, on solicitation lists, and providing written notice of subcontracting opportunities to M/WBEs and all other small businesses capable of performing the work, including without limitation all businesses on any list provided by the County, in sufficient time to allow such businesses to respond to the written solicitations.
 - 3) Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including M/WBEs.
 - 4) Establishing delivery schedules, where the requirements of this Contract permit, that encourage participation by small businesses, including M/WBEs.
 - 5) Providing small businesses including M/WBEs that express interest with adequate and timely information about plans, specifications, and requirements of the Contract.
 - 6) Utilizing the services of available community organizations, contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses including M/WBEs.

Further, the County encourages small businesses, including M/WBEs, to participate in the following practices to promote open competitive opportunities:

- 1) Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to receive project information and to inform prime bidders/proposers of contracting and subcontracting capabilities.
 - 2) Requesting placement on solicitation lists, and receipt of written notice of subcontracting opportunities.
 - 3) Utilizing the services of available community organizations, contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses and M/WBEs.
- E. Sanctions for Violations: Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of contract for which the Contractor may be subject to damages and sanctions provided for by contract and by applicable law.

PART 4: REQUIREMENTS DURING WORK

- A. Site Visits: King County may at any time visit the site of the work and the Contractor's office to review records related to actual utilization of and payments to subcontracting firms. The Contractor shall maintain sufficient records necessary to enable King County to review utilization of subcontracting firms. The Contractor shall provide every assistance requested by King County during such visits.

PART 5: 504 AND AMERICANS WITH DISABILITIES ACT *(Not applicable to contracts only supplying tangible goods.)*

- A. The Contractor shall complete a Disability Self-Evaluation Questionnaire for all programs and services offered by the Contractor (including any services not subject to this Contract) and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended ("504"), and the Americans with Disabilities Act of 1990 ("ADA"). The Contractor shall complete a 504/ADA Disability Assurance of Compliance and shall submit it to the County prior to the County executing this contract. Such Assurance of Compliance will be incorporated herein by this reference.
- B. If the Contractor has previously submitted the Disability Assurance of Compliance form to the County, it is exempt from filing the Disability Assurance form for two years from date of County receipt, provided that the Contractor is in the same location. In this instance, the Contractor will attach a copy of the original signed Assurance of Compliance form affirming continued efforts to comply with Section 504 and the ADA.

1-22 Disadvantaged Business Enterprise (DBE) Requirements

It is the County's policy that disadvantaged business enterprises (DBEs) shall have the maximum practicable opportunity to participate in the performance of contracts for the County. In this regard, the Bidder shall take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to participate in the performance of subcontracts and agreements hereunder. The Bidder shall not discriminate or tolerate harassment or abuse on the basis of creed, race, religion, color, sex, sexual orientation, age, national origin or the presence of any sensory, mental or physical disability in the award and performance of such contracts and subcontracts.

A DBE is any firm certified as such at the date and time of Bid by the Washington State Office of Minority and Women's Business Enterprise (OMWBE) or by the federal Small Business Administration under section 8(a) of the federal Small Business Act, as amended.

The County recognizes there may be few contracting opportunities for DBEs involved in performance under this IFB and therefore has not established a DBE participation goal. If the Bidder subcontracts any work under a contract awarded pursuant to this IFB, the Bidder shall make affirmative efforts to solicit and use DBEs.

Affirmative efforts shall include, at a minimum, that the Bidder take the following steps prior to entering into any subcontracts:

- A. Contact the County's Minority/Women Business Enterprise Office to explain the work to be subcontracted and to obtain a listing of DBEs which may be interested in performing such subcontract work;
- B. Solicit Bids from such DBEs; and
- C. Award subcontracts to such DBEs which provide reasonable Bids.

The Bidder shall complete and submit as part of its Bid the Sworn Statement Regarding Disadvantaged Business Enterprise Commitment set forth in Attachment F of this IFB.

Failure to comply with the DBE requirements will be grounds for contract termination. If the Contractor subcontracts work hereunder and fails to comply with the DBE participation requirements set forth herein, then the County may declare a breach of contract and avail itself of all remedies under this Contract and by law on account of such breach.

SECTION 2 - BID EVALUATION AND CONTRACT AWARD

2-1 Evaluation of Bids

Bids will be evaluated by the County to determine which Bid, if any, should be accepted in the best interest of the County.

A. Responsiveness

The County will consider all the material submitted by the Bidder to determine whether the Bidder's offering is in compliance with the terms and conditions set forth in this IFB.

B. Responsibility

1. The County will consider all the material submitted by the Bidder, and other evidence it may obtain otherwise, to determine whether the Bidder is capable of and has a history of successfully completing contracts of this type. This may include requiring the Bidder to provide references from previous contracts who have been provided the same or equivalent goods or services. References shall include the names and addresses of the parties to whom such goods or services were provided, and the name and phone number of contact persons with such parties.
2. The following elements will be given consideration by the County in determining whether a Bidder is responsible:
 - a. the ability, capacity and skill of the Bidder to perform the contract or provide the service required;
 - b. the character, integrity, reputation, judgment and efficiency of the Bidder;
 - c. whether the Bidder has the financial resources and experience to perform the contract properly and within the times specified;
 - d. the quality and timeliness of performance by the Bidder on previous contracts with the County and with other local governments and state and federal agencies, including, but, not limited to, the relative costs, burdens, time and effort necessarily expended by the County and such governments and agencies in securing satisfactory performance and resolving claims;
 - e. the previous and existing compliance by the Bidder with laws relating to public contracts or services, including, but not limited to equal employment opportunity requirements;
 - f. the history of the Bidder in filing claims and litigation on prior projects involving the County or on other public or private projects; and
 - g. such other information as may be secured having a bearing on the decision to award the Contract.

Bidder shall furnish acceptable evidence of the Bidder's ability to perform, such as firm commitments by subcontractors, equipment, supplies and facilities, and the Bidder's ability to

obtain the necessary personnel, when requested by the County. Refusal to provide such information when requested will cause the Bid to be rejected.

C. Financial Resources

If requested by the County after Bid opening, the Bidder shall submit proof of adequate financial resources which would be available to the Bidder for the prosecution and completion of the work as required. When requested, the required financial information shall include:

1. audited financial statements such as balance sheets, five (5) statements of income, statements of cash flow and stockholders' equity, for each of the most recently completed fiscal years, including notes to financial statements, independent accountants' reports and annual reports to stockholders;
2. documentation of an open line of credit or other arrangement with an established bank under which adequate financing would be available for prosecution and completion of the work called for hereunder;
3. certification by the principal financial officer of or an independent accountant for the Bidder, stating that the Bidder has adequate financial resources for the prosecution and completion of the work called for hereunder; and
4. the names, addresses and telephone numbers of at least one contact in the company's principal financial or banking organization and its independent auditor.
5. the Bidder shall supply when requested written authorization for the County to contact the bank and the independent accountant, and written authorization requiring the bank and independent accountant to provide the information to the County regarding financial capability.

D. Financial Reporting

The Bidder shall provide a current copy of its Dun and Bradstreet report if requested by the County.

2-2 Collusion

If the County determines that collusion has occurred among Bidders, none of the Bids of the participants in such collusion will be considered. The County's determination shall be final.

2-3 Rejection of Bids

- A. The County reserves the right to reject any Bid for any reason including, but not limited to, the following: any Bid which contains any omission, erasure or irregularity; any Bid which is incomplete, obscure, irregular or lacking necessary detail and specificity; any Bid which has any qualification, addition, limitation or provision attached to the Bid; any Bid which omits a price on any one or more items on the Bid Submittal Form; any Bid in which prices are unbalanced in the opinion of the County; any Bid accompanied by insufficient or irregular Bid security; any Bid from Bidders who (in the sole judgment of the County) lack the qualifications or responsibility necessary to perform the work; any Bid which is not approved as being compliant with the requirements for equal employment opportunity; any Bid for which a Bidder fails or neglects to complete and submit any qualifications information within the time specified by the County; and any Bid submitted by a Bidder which is not registered or licensed as may be required by the laws of the state of Washington or local government agencies.

- B. In consideration for the County's review and evaluation of its Bid, the Bidder waives and releases any claims against the County arising from any rejection of any or all Bids, including any claim for costs incurred by Bidders in the preparation and presentation of Bids submitted in response to this IFB. In addition, Bidders waive the costs of providing additional information requested or cost of modifications made to its internal structure, systems or organizations.
- C. The County reserves the right to waive informalities and irregularities in bids.
- D. The County shall find non-responsive and reject any Bid which does not comply with the DBE requirements under this IFB, if applicable.

2-4 Procedures When Only One Bid is Received

If the County receives a single responsive, responsible Bid, the County shall have the right, in its sole discretion, to extend the Bid acceptance period for an additional forty-five (45) days and to conduct a price or cost analysis on such Bid. The Bidder shall promptly provide all cost or pricing data, documentation and explanation requested by the County to assist in such analysis. By conducting such analysis, the County shall not be obligated to accept the single Bid; the County reserves the right to reject such Bid or any portion thereof.

2-5 Contract Award

The lowest Bid of a responsive, responsible Bidder shall be determined as set forth in this IFB.

The initial identification of the apparent low, responsive responsible Bidder will result in a request for documentation. Within ten (10) calendar days of receipt of the request, the Bidder shall furnish any required performance and payment bond and evidence of any required insurance and perform all other acts required by this IFB as conditions precedent to the formation of the contract.

Failure by the Bidder to submit satisfactory evidence of a required bond and/or insurance shall result in rejection of the bid as non-responsive and forfeiture of the Bidder's security, if any.

Contract award will occur when King County completes and signs the Agreement of the selected Bidder and issues a Contract Agreement. No other act of the County shall constitute acceptance of a Bid. The Contract Agreement is a computer generated document with the awarded Contract number, referencing the Agreement, and line items awarded.

The Contractor will receive the Contract Agreement and a copy of the signed Agreement.

SECTION 3 - STANDARD CONTRACTUAL TERMS AND CONDITIONS

3-1 Administration

This contract is between the County and the Contractor who will be responsible for providing the goods and/or performing the services described herein. The County is not party to defining the division of work between the Contractor and its subcontractors, if any, and the specifications have not been written with this intent.

The Contractor represents that it has or will obtain all personnel and equipment required to perform hereunder. Such personnel shall not be current or former employees of the County without the written approval of the County. Any current or former County employee who is involved, or becomes involved, in the performance of the Contract must be disclosed according to Attachment G; and the County will determine whether conflicts of interest or ethical violations exist under the circumstances.

The Contractor's performance under this Contract may be monitored and reviewed by a contract administrator appointed by the County. Reports and data required to be provided by the Contractor shall be delivered to the contract administrator. Questions by the Contractor regarding interpretation of the terms, provisions and requirements of this contract shall be addressed to the contract administrator for response.

3-2 Change Orders

The County may, at any time, without notice to the sureties, by written order, make any change in the work within the scope of this Contract. No oral order or conduct by the County will constitute a change order unless confirmed in writing by the County.

If any change order causes an increase or decrease in the cost of, or the time required for performance of any part of the work under this Contract, an equitable adjustment in the contract price, the delivery schedule, or both shall be made and the Contract modified in writing accordingly. Every change order may require a cost/price analysis to determine the reasonableness of the proposed change.

The Contractor must assert its right to an adjustment under this clause within five (5) calendar days after receipt of a written change order from the County. Upon request from the Contractor, the County may extend the five (5) day period. The request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. The County may require additional supporting documents and cost or price analysis to determine the validity of the claim.

No claim by the Contractor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract. No claim will be allowed for any costs incurred more than ten days before the Contractor gives written notice, as required in this section.

3-3 Cost/Price Analysis

Cost/price analysis may be required by the County in the event of a single bid, change order, termination, revision to contract requirements or other circumstances as determined by the Buyer.

3-4 Termination for Convenience/Default/Non-Appropriation

A. Termination for Convenience

The County for its convenience may terminate this Contract, in whole or in part, at any time by written notice sent certified mail, return receipt requested, to the Contractor. After receipt of a Notice of Termination, and except as directed by the contract administrator, the Contractor shall immediately stop work as directed in the Notice, and comply with all other requirements in the Notice. The Contractor shall be paid its costs, including necessary and reasonable contract close-out costs and profit on that portion of the work satisfactorily performed up to the date of termination as specified in the notice. The Contractor shall promptly submit its request for the termination payment, together with detailed supporting documentation. If the Contractor has any property in its possession belonging to the County, the Contractor will account for the same and dispose of it in the manner the County directs. All termination payment requests are subject to cost/price analysis to determine reasonableness and compliance with the Contract; the Contract termination agreement, applicable laws and regulations.

B. Termination for Default

In addition to termination for convenience, if the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services and the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other material provisions of the contract, the County may terminate this contract, in whole or in part, for default. Termination shall be effected by serving a Notice of Termination by certified mail (return receipt requested) on the Contractor setting forth the manner in which the Contractor is in default and the effective date of termination; provided that the Contractor shall have ten (10) calendar days to cure the default. The Contractor will only be paid for goods delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract less any damages to the County caused by or arising from such default. All termination payment requests are subject to cost/price analysis to determine reasonableness and compliance with the contract; the contract termination agreement, applicable laws and regulations. The termination of this contract shall in no way relieve the Contractor from any of its obligations under this Contract nor limit the rights and remedies of the County hereunder in any manner.

C. Termination for Non-Appropriation

If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth in this contract or in any amendment hereto, the County may, upon written notice to the Contractor, terminate this Contract in whole or in part. Such termination shall be in addition to the county's rights to terminate for convenience or default.

In accordance with King County Code 4.04, 040B.6., payment shall not exceed the appropriation for the year in which termination is effected. If the Contract is terminated for non-appropriation:

1. The County will be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination; and
2. The Contractor shall be released from any obligation to provide further services pursuant to the contract as are affected by the termination.

Funding under this contract beyond the current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the activities described in this

contract. Should such an appropriation not be approved, the contract will terminate at the close of the current appropriation year. The appropriation year ends on December 31 of each year.

3-5 Force Majeure

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, accidents, shutdowns for purpose of emergency repairs, strikes and any other industrial, civil or public disturbances, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by act of nature or any other cause not reasonably within such party's control, to perform or comply with any obligation or condition of this Contract, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent reasonably necessary to restore normal operations. In the event Contractor ceases to be excused pursuant to this provision, then King County shall be entitled to exercise any remedies otherwise provided for in this Contract, including the Termination for default.

3-6 Payment Procedures

A. Invoices

Invoices shall be furnished by the Contractor for goods and/or services, which have been delivered or provided to the County, to:

King County
Accounts Payable M.S. EXC-FI-0875
821 Second Avenue, Suite 10
Seattle, Washington 98104-1598

Important -- The County requires one invoice per purchase order for payment processing. All invoices must include the following information: contract number, requester's name and phone number, date of invoice, invoice number, purchase order number, prompt payment discount and total price for invoice. For each item purchased indicate quantity, description, part number, model and serial number; where applicable, manufacturers or wholesale list price and discount percentage allowed off the list price, item price and total price for the item and/or for services identify labor category, hourly rates, hours worked, total hours or related fees. Failure to comply with this requirement may delay payment.

B. Payment

Within thirty (30) calendar days after receipt of an invoice, on the basis set forth in Attachment B, the County will pay the Contractor for authorized goods and/or services satisfactorily delivered or performed. Acceptance of such payment by the Contractor shall constitute full compensation for all supervision, labor, supplies, materials, work, equipment and the use thereof, and for all other necessary expenses, incurred by the Contractor.

3-7 Washington State Sales Tax

The County will make payment directly to the State for all applicable State sales taxes in case the Contractor is not registered for payment of sales taxes in the State of Washington. If the Contractor is so registered, it shall add the sales tax to each invoice and upon receipt of payment from the County, promptly remit appropriate amounts to the State of Washington.

3-8 Taxes, Licenses, and Certificate Requirements

This Contract and any of the services or supplies provided hereunder are contingent and expressly conditioned upon the ability of the Contractor to provide the specified service or supplies consistent with federal, state and local law and regulations. If, for any reason, the Contractor's required licenses or certificates are terminated, suspended, revoked or in any manner modified from their status at the time this contract becomes effective, the Contractor shall notify the County immediately of such condition in writing.

The Contractor shall maintain and be liable for all taxes, fees, licenses and costs as may be required by federal, state and local laws and regulations for the conduct of business by the Contractor and any subcontractors and shall secure and maintain such licenses and permits as may be required to provide the services or supplies under this Contract.

3-9 Price Warranty

The Contractor warrants that the prices charged the County do not exceed the prices charged by the Contractor to any other customer purchasing the same product or service in like or similar quantities, and under similar terms and conditions.

3-10 Defective Work, Materials or Services

Prior to final acceptance hereunder, when and as often as the County determines that the work, materials or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, it may give notice and description of such non-compliance to the Contractor. Within seven (7) calendar days of receiving such written notification, the Contractor must supply the County with a written detailed plan which indicates the time and methods needed to bring the work, materials or services within acceptable limits of the specifications. The County may reject or accept this plan at its discretion. In the event this plan is rejected, the work, materials or services will be deemed not accepted and returned to the Contractor at the Contractor's expense. This procedure to remedy defects is not intended to limit or preclude any other remedies available to the County by law, including those available under the Uniform Commercial Code, Title 62A RCW.

3-11 No Waiver of Warranties and Contract Rights

Conducting of tests and inspections, review of specifications or plans, payment for a product or service, or acceptance of a product or service by the County shall not constitute a waiver, modification or exclusion of any express or implied warranty or any right under this Contract or in law.

3-12 Assignment

No party shall assign any interest, obligation or benefit under or in this Contract or transfer any interest in the same, whether by assignment or novation, without prior written consent of the other party. If assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of the parties. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender. An assignment shall be accepted by either party upon the posting of all required bonds, securities and the like by the assignee, and the written Agreement by assignee to assume and be responsible for the obligations and liabilities of the Contractor or County, known and unknown, under this Agreement and applicable law.

3-13 Indemnification and Hold Harmless

The successful awardee shall protect, defend, indemnify, and hold the County, its agents, employees, officials, and officers harmless from, and shall process and defend at its own expense any and all claims,

demands, suits, penalties, losses, damages, or costs of any kind whatsoever (hereinafter "claims") brought against the County arising out of or incident to the execution of, performance of, or failure to perform this Contract; PROVIDED, however, that if such claims are caused by or result from the concurrent negligence of the successful awardee, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this paragraph shall be valid and enforceable only to the extent of the negligence of the successful awardee, its agents, employees, and/or officers; and, PROVIDED FURTHER, that nothing in this paragraph shall require the successful awardee to indemnify, hold harmless, or defend the County, its agents, employees, and/or officers from any claims caused by or resulting from the sole negligence of the County, its agents, employees, and/or officers. The successful awardee's obligation under this paragraph shall include indemnification for claims made by the successful awardee's own employees or agents. For this purpose, the successful awardee, by mutual negotiation, hereby waives, with respect to the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 R.C.W. In the event the County incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this paragraph, and such fees, expenses, and costs shall be recoverable from the successful awardee.

3-14 Applicable Law and Forum

Except as hereinafter specifically provided, this Contract shall be governed by and construed according to the laws of the State of Washington, including, but not limited to, the Uniform Commercial Code, Title 62A RCW. Any suit arising here from shall be brought in the King County Superior Court, which forum shall have sole and exclusive jurisdiction and venue.

3-15 Conflicts of Interest and Non-Competitive Practices

A. Conflict of Interest

The Contractor, by entering into this Contract with the County to perform or provide work, services or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services or materials required to be performed and/or provided under this contract and that it shall not employ any person or agent having any such interest. In the event that the Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to the County and take action immediately to eliminate the conflict or to withdraw from this Contract, as the County may require.

B. Contingent Fees and Gratuities

The Contractor, by entering into this Contract with the County to perform or provide work, services or material, has thereby covenanted:

1. No person or selling agency except bona fide employees or designated agents or representatives of the Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member or employee of the County or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

3-16 Disputes, Claims and Appeals

The Contractor shall address questions or claims regarding meaning and intent of the Contract or arising from this Contract in writing to the Buyer, within ten (10) calendar days of the date in which the Contractor knows or should know of the question or claim. The Buyer will ordinarily respond to the Contractor in writing with a decision, but absent such written response, the question or claim shall be deemed denied upon the tenth day following receipt by the Buyer.

In the event the Contractor disagrees with any determination or decision of the Buyer, the Contractor may, within five (5) calendar days of the date of such determination or decision, appeal the determination or decision in writing to the Procurement Division Manager. Such written notice of appeal shall include all documents and other information necessary to substantiate the appeal. The Procurement Division Manager will review the appeal and transmit a decision or determination in writing. The decision will be considered final. Appeal to the Procurement Division Manager shall be a condition precedent to litigation hereunder.

All claims, counterclaims, disputes and other matters in question between the County and the Contractor that are not resolved between the Procurement Division Manager and the Contractor or through alternative dispute resolution will be decided in the Superior Court of King County, Washington, which shall have exclusive jurisdiction and venue over all matters in question between the County and the Contractor. Mediation or arbitration are not mandatory prerequisites to filing a lawsuit.

Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the direction of the Buyer. Failure to comply precisely with the time deadlines under this subsection as to any claim shall operate as a waiver and release of that claim and an acknowledgment of prejudice to the County.

3-17 Mediation and Arbitration

If a dispute arises out of or relates to this Contract, or the breach thereof, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation. Thereafter, any unresolved controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Nothing in this subsection precludes any party from seeking relief from King County Superior Court.

3-18 Retention of Records, Audit Access and Proof of Compliance with Contract

A. Retention of Records

1. The Contractor shall maintain books, records and documents of its performance under this Contract in accordance with generally accepted accounting principles. The Contractor shall maintain and retain for a period of not less than six (6) years after the date of final acceptance of contract work and all other pending matters are closed; all financial information, data and records used to prepare and support the Contractor's invoicing for supplies or services and any payments resulting from change orders or claims. In addition, the Contractor shall maintain the financial information used in the preparation or support of any change orders or claims.
1. The Contractor shall ensure that its subcontractors and suppliers maintain and retain for no less than six (6) years all records pertaining to the performance by the subcontractors and suppliers of their portions of the work under this Contract.

B. Audit Access

1. The County and its authorized representatives and designees shall have access to all records maintained and retained by the Contractor and its subcontractors for the purpose of inspection, cost/price analysis, audit or other reasonable purposes related to this contract. The County and its representatives and designees shall have access to records and be able to copy such records during the Contractor's normal business hours. The Contractor shall provide proper facilities for such access, inspection and copying.
2. Audits may be conducted during or after the contract period for purposes of evaluating claims by or payments to the Contractor and for any other reason deemed appropriate and necessary by the County. Audits will be conducted by auditors selected and paid for by the County. Audits shall be conducted in accordance with generally accepted auditing standards and/or audit procedure and guidelines of the County. The Contractor shall fully cooperate with the County or its auditor(s) during audits and inspections, and provide all requested documentation.
3. If an audit is commenced more than sixty (60) days after the date of final acceptance of contract work, the County will give reasonable notice to the Contractor of the date on which the audit will begin.
4. The Contractor shall maintain records relating to the pricing of spare parts. The County will have access to such records for audit purposes.
5. The Contractor may be required to sign a "Certificate of Current Cost or Pricing Data."

C. Proof of Compliance with Contract

The Contractor shall, at any time when requested, submit to the County properly authenticated documents or other satisfactory proofs as to the Contractor's compliance with such requirements.

In addition, the Contractor will permit the County, and if federally funded, the FTA and the Comptroller General of the United States, or a duly authorized representative, to inspect all work, materials, payrolls and other data and records involving the Contract.

3-19 Other Public Agency Orders

Other federal, state, county and local entities may utilize the terms and conditions established by this Contract if formally requested and approved by the Buyer. The County does not accept any responsibility or involvement in the purchase orders or contracts issued by other public agencies. A formal cooperative purchasing agreement will be executed.

SECTION 4 - ORDERING, DELIVERY AND SPECIFIC CONTRACTUAL TERMS

4-1 Type of Contract

This IFB may result in the award of one or more contract agreements. King County will utilize these contract agreements as indefinite quantities contracts and issue standard purchase orders to the Contractor citing item number, description, deliver terms and contract price. The standard purchase orders will be the authorization for the Contractor to perform the service or deliver the goods as directed.

4-2 Contract Period

The initial contract period shall be one (1), commencing on the date of execution of this Contract. King County may extend this Contract for four (4) additional one-year periods. During extension periods, all terms and conditions of this Contract shall remain in effect except those amended for the extension period. The maximum term for this Contract, consisting of the base period plus extensions, is five (5) years.

4-3 Contract Value

The estimated annual value of this contract is approximately \$50,000.00 per year. King County will not be limited, restricted or bound by this dollar value, nor shall the County be obligated to purchase any items contained in this Contract.

4-4 Pricing

Prices shall remain firm for the duration of the contract period. Reasonable price changes based on market conditions and price/cost analysis may be made after the initial contract period. The contractor shall supply documentation satisfactory to King County such as documented changes to the Producers Price Index (PPI), the Consumer Price Index (CPI) or a manufacturer's published notification of price change(s). King County will evaluate this information to determine if revising the pricing is considered fair and reasonable to the satisfaction of King County. Requests for any such change are to be made in writing to the buyer in the Procurement Services Division office. Any agreed-to change shall take effect at the time of the contract extension and shall remain in effect throughout the extension period. The parties hereto recognize that such changes could be increases or decreases in the prices; both parties are entitled to benefit from such price changes.

King County will not be bound by prices contained in an invoice that are higher than those in the currently approved price list. If prior acceptance of the higher price has not been done by King County, the invoice may be rejected and returned to the Contractor for a correct invoice.

4-5 Prompt Payment Discount

Prompt payments (less than 30 days) are available, if a prompt payment discount was offered by the contractor. King County may exercise the prompt payment discount if the payment is in the U.S. mail or otherwise given to the Contractor within the number of calendar days offered by the Contractor. The number of calendar days is calculated from the date of acceptance of the goods or services or from the date a complete invoice is received by Accounts Payable, whichever event occurs last, and the date of payment.

4-6 Shipping Charges

All prices shall include freight to destination (FOB to the designated delivery point.) Requests for additional compensation for freight charges will be rejected by the County.

4-7 Delivery Requirements

All goods and/or services shall be furnished between the hours delivery hours of 6:30 a.m. to 3:00 p.m. Monday through Friday, by the Contractor to the point of delivery designated by King County as soon as it is commercially practicable, but in no event later than the projected delivery date. The delivery schedule can be coordinated with King County and the vendor if special arrangements need to be made. The Contractor shall notify the County within twenty-four (24) hours of order placement if delivery of any item will not be made by the projected delivery date.

Unless so notified by the Contractor, the County may consider as canceled any order, or any part thereof, that has not been delivered by the projected delivery date to the specified delivery point.

The County reserves the right to obtain necessary goods and/or services from alternative sources upon failure by the Contractor to furnish the goods or services described herein.

Repeated non-delivery or failure to notify the County of an inability to deliver shall be cause for termination of the Contract.

4-8 Packing Slips

Each delivery to the County shall have a packing slip enclosed that identifies the requester, contract number, requisition number, King County part number, unit price and quantity of each part shipped. If the delivery is a partial shipment, indicate on the packing slip that it is not a complete shipment of that requisition and identify the items not shipped and provide a projected completion date of the requisition.

If the delivery combines items from more than one requisition, separate packing slips must be included in the shipment for each requisition. A packing slip will not serve as an invoice. A separate invoice must be sent to Accounts Payable.

4-9 Delivery Points

This Contract requires all goods and/or services and supervision necessary to furnish the goods and services as set forth herein to be made to any sites in King County to be determined at the sole discretion of King County.

4-10 Guarantee/Warranty

The Contractor guarantees the goods and services furnished under this Contract will be free from defects in material and workmanship, and will conform with all requirements of this Contract, for a period of one year from date of delivery to the County. The Contractor is responsible for all costs of replacement, including shipping charges, for goods or services found defective within that period, regardless of who actually corrects the defect.

The County shall give written notice of any defect to the Contractor. If the Contractor has not corrected defect within thirty (30) calendar days after receiving the written notice, the County, in its sole discretion, may correct the defect itself. In the case of an emergency where the County believes delay could cause serious injury, loss or damage, the County may waive the written notice and correct the defect. In either case, the County will charge-back the cost for such warranty repair to the Contractor.

The Contractor shall ensure that the warranty requirements of this contract are enforceable through and against the Contractor's suppliers, vendors, distributors and subcontractors. The Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to the County by the Contractor and those extended to the Contractor by its suppliers, vendors, distributors and subcontractors. Such inconsistency or difference will not excuse the Contractor's full compliance with its obligations under this Contract.

The Contractor, upon notice of award of the contract, shall promptly provide to the County complete copies of all written warranties or guarantees and/or documentation of any other arrangement relating to such warranties or guarantees extended to the Contractor by the Contractor's suppliers, vendors, distributors and subcontractors covering parts, components, subcomponents and systems procured through this contract. The Contractor shall cooperate with the County in facilitating warranty related work by such suppliers, vendors, distributors and subcontractors.

If the original parts or equipment manufacturer provides a warranty that is greater in scope or duration than the Contractor's warranty to the County, the County shall receive the increased warranty benefits.

The termination of this contract shall in no way relieve the Contractor from its warranty/guarantee responsibility.

Any goods or services corrected shall be subject to this subsection to the same extent as the goods or services initially provided.

This guarantee shall be in addition to any other express warranties or any implied warranties or remedies provided by this Contract or by law, and in addition to any other rights or remedies available to the County under this contract or by law. No provision in this subsection shall be construed to limit the liability of the Contractor for work not done in accordance with the Contract. The liability for such failure to perform shall extend as far as the appropriate periods of limitation provided by law.

The Contractor shall ensure the County receives warranty related work from its suppliers, distributors, proposers and subcontractors.

4-11 Hazardous Chemical Communication

In order to comply with WAC 296-62-054, Hazard Communication, the Contractor shall submit with the Bid a Material Safety Data Sheet (MSDS) for all products containing any toxic products that may be harmful to the end user. The MSDS Sheet is to accompany the toxic product(s) to the specified delivery site with each order.

Include the following information in the MSDS:

- A. Chemical Abstract Service (CAS) numbers for every chemical that is listed in the MSDS.
- B. If the product is actually used diluted, the dilution rate should be so stated in the MSDS and the hazards and corresponding personal protection, etc. also be listed.
- C. SARA Title 3 chemicals must be listed with the percentage by weight of the total product.
- D. A statement as to the intended use of the product.

4-12 Industrial and Hazardous Waste

The Contractor shall comply with all applicable local ordinances, state and federal statutes, and supporting rules and regulations governing the discharge of industrial waste to a public sewer, private sewer, or side sewer tributary to the King County sewage system.

Contractor shall handle and dispose of all hazardous wastes in compliance with all applicable local, state and federal laws and regulations, including the Resource Conservation and Recovery Act, the Washington Hazardous Waste Management Act, and applicable rules and regulations of the Environmental Protection Agency and the Department of Ecology governing the generation, storage, treatment, transportation or disposal of hazardous wastes.

4-13 Product Safety

The Contractor shall not supply any products that contain any of the chemicals listed in Washington State Dangerous Waste Regulations, WAC 173-303-9903. The products must not contain any carcinogens, suspected carcinogens or mutagens. In addition, any product supplied by the Contractor must meet OSHA and any other federal, state and/or local safety requirements.

4-14 Prohibition on Asbestos-Containing Products

Asbestos-containing products shall not be provided to the County under this Contract, unless no practicable alternative for the asbestos-containing product exists and the Contractor obtains the written consent of the County. The Contractor shall notify the County in writing at least 60 days before it plans to supply the County with an asbestos-containing product. The County shall respond to such notification within 30 days of receipt. The Contractor shall comply with applicable state, federal and local labeling and other laws, regulations and ordinances pertaining to asbestos-containing products, including, but not limited to, the State of Washington Industrial Safety and Health Act and the federal Occupational Safety and Health Act.

4-15 Product Return

King County reserves the right to return to the Contractor, those parts and supplies determined to be surplus and no longer required by the County.

Parts and supplies eligible for return to the Contractor shall have been purchased for inventory or as spares, be unused, and in the same general condition as when received. King County must advise the contractor in writing of its intention to return any parts and supplies before the contract closes.

This subsection does not apply to any merchandise made to order for King County.

4-16 Use Report

The contractor shall, if requested, submit to the Procurement Services Division Buyer a quarterly report of sales made to King County under this Contract.

The report, in a format acceptable to King County, shall identify the customer for each item purchased, the item description, whether its a contract or non-contract item, quantity, price and discount.

4-17 Severability

Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.

SECTION 5 - INSURANCE REQUIREMENTS

5-1 Evidence and Cancellation of Insurance

- A. Prior to execution of the Contract, the Contractor shall file with the County certificates of insurance and endorsements from the insurer(s) certifying to the coverage of all insurance required herein. All evidence of insurance must be certified by a properly authorized officer, agent, general agent or qualified representative of the insurer(s) and shall certify the name of the insured, the type and amount of insurance, the location and operations to which the insurance applies, the expiration date, and that King County receives notice at least 45 days prior to the effective date of any cancellation, lapse or material change in the policy.
- B. The Contractor shall, upon demand of King County, deliver to King County all such policies of insurance, and all endorsements and riders, and the receipts for payment of premiums thereon.

Failure to provide such insurance in a time-frame acceptable to King County shall enable King County to suspend or terminate the Contractor's work hereunder in accordance with contract provisions regarding "Termination for Convenience/Default/Non-appropriation." Suspension or termination of this contract shall not relieve the Contractor from its insurance obligations hereunder.

5-2 Insurance Requirements

- A. The Contractor shall obtain and maintain the minimum insurance set forth below. By requiring such minimum insurance, King County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

For all coverages:

Each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Contract.

- B. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- 1. General Liability

Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY.

- 2. Automobile Liability

Insurance Services Office form number (CA 00 01 Ed. 12-90) covering BUSINESS
AUTO COVERAGE, symbol 1 “any auto”; or the combination of symbols 2, 8 and 9.

3. Workers' Compensation

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" State Law.

4. Employers Liability or "Stop Gap":

The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.

C. Minimum Limits of Insurance

The Contractor shall maintain limits no less than, for:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation: Statutory requirements of the State of residency.
4. Employers Liability Stop Gap: \$1,000,000.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

E. Other Insurance Provisions

The insurance policies required in this Contract are to contain, or be endorsed to contain the following provisions:

1. General Liability Policy:

- a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the contractor in connection with this contract.
- b. To the extent of the Contractor's negligence, the contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way.
- c. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

F. Acceptability of Insurers

Unless otherwise approved by the County,

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Bests' rating of B+:VII. Any exception must be approved by the County.

If at any time of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

G. Subcontractors

The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Contract shall be subject to all of the requirements stated herein.

H. Work Site Safety

The Contractor shall have the "right to control" and bear the sole responsibility for the job site conditions, and job site safety. The contractor shall comply with all applicable Federal, State and Local safety regulations governing the job site, employees and subcontractors. The Contractor shall be responsible for the subcontractor's compliance with these provisions.

SECTION 6 - SPECIFICATIONS

6-1 General

This contract calls for the supply and delivery of activated carbon (both caustic impregnated and non-impregnated) for use in the odor control units at King County, Department of Natural Resources, Maintenance-East and Maintenance-West wastewater treatment plants and their associated off-site facilities. This material will be ordered on an as-needed basis.

6-2 Process

This IFB is being conducted in a two-step, sealed bidding process. The first step is the testing of vendor product, activated carbon, and the second step, only those firms that have been found to be technically qualified in the first step are invited via an addendum to submit sealed bids as identified in Attachment B, Bid Submittal Form. Award will then be made to the lowest, responsive and responsible bidder.

6-3 Product Testing

Firms will be requested to supply one (1) pound each samples of non-impregnated activated carbon and caustic impregnated activated carbon to King County Department of Natural Resources, Wastewater Treatment Division, 1200 Monster Road SW, Renton, WA 98052, Attention: Steven Yee, 206-684-2476. Samples will be accepted until the end of the business day August 25, 2000.

Once the testing is complete (estimated completion date for testing is September 8, 2000) those firms whose product is found to be technically qualified will be requested via an addendum to submit sealed bids.

6-4 Product Specification

A. Non-Impregnated Activated Carbon

Carbon Capacity	Tetrachloride	ASTM-D3467	typical	60%
Apparent Density (a)		ASTM-D2854	typical	.48 - .50 g/cc
Hardness		MIL-C-17605B	minimum	95%
Ash		ASTM-D2866	maximum	10%
Moisture as packed				3%
Surface Area (BET)			typical	1000 m2/g
4 * 8 (U S Sieve)			oversize max.	10%
			undersize max.	5%
(a) 30 lbs. per cubic foot				

B. Caustic Impregnated Activated Carbon

Carbon Capacity	Tetrachloride	ASTM-D3467		60%
Particle Size Distribution		ASTM-D2862		4 * 8 (U S Sieve)
Pressure Drop (a) @ 50 fpm inches of water/ft of bed				1.4
Hardness Number		ASTM-D3802	Minimum	95%
Moisture		ASTM-D2867	Maximum	15%
Apparent Density		ASTM-D2854		.55 g/cc

Hydrogen Sulfide Capacity (b)		Minimum	0.12 g/cc
-------------------------------	--	---------	-----------

- (a) Determined by passing dry 70° air through a 3-inch diameter by 12-inch deep bed of closely packed activated carbon.
- (b) Determined by passing a moist (r.h. 85%) stream of air containing 1% by volume hydrogen sulfide through a 1-inch diameter tube with a 9-inch bed of closely packed activated carbon at a rate of 1450 cc/min and monitored to a 50 ppm breakthrough. Result is reported as grams of H₂S absorbed per cc of carbon.

6-5 Quantity

King County Department of Natural Resources activated carbon requirements vary and usage can only be estimated. King County Department of Natural Resources will neither be obligated nor restricted to the product quantities indicated. The Contractor will be responsible for supplying the Department's actual requirements during the term of the Contract. The material will be ordered on an as-needed basis.

The annual estimated usage for the Operations-East and West and the associated off-site facilities are as follows:

Non-impregnated activated carbon:	50,000 pounds
Caustic impregnated activated carbon:	70,000 pounds

Since the odor scrubbing vessels vary in size and accessibility, King County Department of Natural Resources reserves the right to request the size of packaging .

ATTACHMENT A

NO BID RESPONSE FORM

When submitting a "No Bid," mail this completed form to King County Procurement Services Division, Exchange Branch, M/S EXC-FI-0710, 821 Second Avenue, Seattle, Washington 98104. Failure to return this form if not submitting a formal Bid may result in your firm being removed from the County's master Bidder's mailing list.

Bid Number: 00-031

Bid Title: Supply and Delivery of Activated Carbon

☐ Cannot comply with specifications

☐ Cannot meet delivery requirement

☐ Do not regularly manufacture or sell the type of commodity involved

☐ Other (please specify) _____

Explanation of reason(s) checked:

Check one of the following:

☐ We do ☐ We do not desire to be retained on the mailing list for future procurements of this commodity.

Please state below firm name, address and telephone number:

Signature

Date

Type or Print Name and Title of Signer

ATTACHMENT B**BID SUBMITTAL FORM**

IFB No: 00-031

Bid Opening Date: September 28, 2000 Time: 2:00 p.m. Buyer: Linda MachnoBid Title: Supply and Delivery of Activated Carbon Phone: 206-684-1392

The undersigned as Bidder declares that we have examined all of the contract documents herein contained and that we will contract with King County on the form of agreement provided herewith to do everything necessary for the fulfillment of the contract at the price and on the terms and conditions herein contained.

We certify that this Bid contains no conditions or modifications to the Bid requirements. We acknowledge that addenda numbered _____ to _____ have been delivered to us and have been examined as part of the contract documents.

If our Bid is accepted, we agree to furnish all applicable bonds, sworn statements and the required evidence of insurance and to perform the other acts which are conditions precedent to formation of the contract within ten (10) calendar days after receiving written notice of award.

We further agree, if our Bid is accepted and a contract for performance of the work is entered into with King County, to so plan the work and to prosecute it with such diligence that all of the work shall be completed within the times stipulated in the delivery schedule of the purchase order.

ITEM NO.	QTY	DESCRIPTION	UNIT PRICE	TOTAL
		SUPPLY AND DELIVERY OF ACTIVATED CARBON		
1		Non-Impregnated Activated Carbon, 1000 bag size - Total Schedule A	\$ _____	
2		Non-Impregnated Activated Carbon, 200-250 drum size - Total Schedule B	\$ _____	
3		Caustic Impregnated Carbon, 1000 pound bag size - Total Schedule C	\$ _____	
4		Caustic Impregnated Carbon, 200-250 drum size - Total Schedule D	\$ _____	
		GRAND TOTAL		\$ _____
		Bidders shall bid on individual schedules A, B, C, or D to be considered responsive.		
		The County reserves the right to award based on Grand Total of all schedules unless there is a savings greater than \$500 for any individual schedule.		
		The quantities identified are estimated annual quantities and are for bidding purposes only.		
		Bids may be subject to rejection if there are any exceptions to the terms, conditions and specifications outlined in IFB 00-031.		

ITEM NO	QTY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE

DECLARATION

By signing this Bid, I hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. The undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this Bid is submitted.
2. By signing the signature page of this Bid, the undersigned business organization is deemed to have signed and agreed to the provisions of this declaration, the terms set forth in this Invitation for Bids and authorized the signature below.
3. In preparing this Bid, the Bidder has not been assisted by any current or former employee of the County whose duties relate now or have related in the past to this Bid or prospective agreement, and who was assisting in other than his or her official public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Bid. Any exceptions to these assurances are described in full detail on a separate page and attached to this Bid Submittal Form.

Internal Revenue Service (IRS) Reporting Requirements

Check one: ☐ Corporation; ☐ Partnership; ☐ Sole Proprietor; ☐ Other _____

Identify: State of Incorporation: _____

Provide one: Federal Tax Number _____ Social Security Number _____

Identify: UBI Number _____ Business License Number _____

What is the official name registered with the IRS for this number: _____

<input type="checkbox"/> Check if firm submitting Bid is a DBE certified by Washington State Office of Minority and Women's Business Enterprises. Prompt payment discount offered: Percentage: _____ Days: _____ Standard payment is net 30 days. Evaluation will be at the discounted prices if the time for the discount is not less than 20 days.	Firm Name: _____ Address: _____ City, State, Zip: _____ Phone Number: _____ Authorized Signature: _____ Printed Name: _____
--	--

Bidders designated contact: Printed Name: _____

Phone number: (____) _____ FAX number: (____) _____ E-mail address: _____

SCHEDULE A
Bid Submittal Form

Price List Number and Date: _____

Bidders shall offer a price per pound for all King County purchases of Activated Carbon. Since the odor scrubbing vessels vary in size and accessibility, KSDNR reserves the right to request the size of packaging for each shipment.

PRODUCT DESCRIPTION:

Non-Impregnated Activated Carbon, 1000 pound bag size.

Estimated annual usage for all sizes of Activated Carbon is 50,000 pounds.

Item No.	Quantity	Package Size	Per Pound Price	Extension
1	20,833	1000 pound bag	\$_____/lb.	\$ _____

SCHEDULE B
Bid Submittal Form

Price List Number and Date: _____

Bidders shall offer a price per pound for all King County purchases of Activated Carbon. Since the odor scrubbing vessels vary in size and accessibility, KSDNR reserves the right to request the size of packaging for each shipment.

PRODUCT DESCRIPTION:

Non-Impregnated Activated Carbon, 200-250 drum size.

Estimated annual usage for all sizes of Activated Carbon is 50,000 pounds.

Item No.	Quantity	Package Size	Per Pound Price	Extension
1	20,833	200 – 250 pound drums (cardboard)	\$_____/lb.	\$ _____

SCHEDULC
Bid Submittal Form

Price List Number and Date: _____

Bidders shall offer a price per pound for all King County purchases of **Caustic Impregnated Carbon**. Since the odor scrubbing vessels vary in size and accessibility, KSDNR reserves the right to request the size of packaging for each shipment.

PRODUCT DESCRIPTION:

Caustic Impregnated Carbon, 1000 pound bag size.

Estimated annual usage for all sizes of Caustic Impregnated Carbon is 70,000 pounds.

Item No.	Quantity	Package Size	Per Pound Price	Extension
1	23,333	1000 pound bags	\$_____/lb.	\$ _____

SCHEDULE D
Bid Submittal Form

Price List Number and Date: _____

Bidders shall offer a price per pound for all King County purchases of **Caustic Impregnated Carbon**. Since the odor scrubbing vessels vary in size and accessibility, KSDNR reserves the right to request the size of packaging for each shipment.

PRODUCT DESCRIPTION:

Caustic Impregnated Carbon, 200-250 drum size

Estimated annual usage for all sizes of Caustic Impregnated Carbon is 70,000 pounds.

Item No.	Quantity	Package Size	Per Pound Price	Extension
1	23,333	200 – 250 pound drum (cardboard)	\$_____/lb.	\$ _____



ATTACHMENT D

Personnel Inventory Report

Legal name of business _____ Telephone No: _____

dba (if applicable) _____

Street address _____ City _____ State _____ Zip Code _____

Submitted by: _____ Title _____ Date _____

IRS Employer Identification Number: _____

Do you have any employees? No ___ Yes ___

If yes, list on the Employment Data Chart below the total number of employees for all businesses located in (1) King County. If none, list the total number of employees for all businesses located in (2) Washington State. If none, list the total number of employees for all businesses located in the (3) United States. Indicate which locale (1,2,3) report covers _____. This report covers Business Location(s) in (circle one): [King County, Washington State, Other States] for the Payroll Period ending (Month/Day/Year): _____.

Do any of your employees belong to a union and/or do you use an employee referral agency? No ___ Yes ___

If yes, list the unions and/or employee referral agencies with whom you have agreements: _____

_____. If you expect to do more than \$10,000 worth of public work (construction) or, more than \$25,000 worth of business with King County, the unions or employee referral agencies must submit a statement of compliance with King County Code Chapter 12.16.

Job Categories	Whites		African Americans		Asians		Native Americans		Hispanics		Disabled		Minority Subtotal		Disabled Subtotal	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
<u>Managerial</u>																
Professional																
Technical																
Clerical																
Sales																
Service																
Labor																
On-Job Trainees																
Apprentice																
Skilled Craft*																
Subtotal																

* Journey worker: List by classification on reverse, e.g., carpenter, plumber, etc.

Total number of employees reported above: _____ If no employees, write "0."



Personnel Inventory Report

SUPPLEMENTAL FORM

Use this form as necessary to report the total work force.

Legal name of business _____ Telephone _____

Submitted by: Title Date

Job Categories	Whites		African Americans		Asians		Native Americans		Hispanics		Disabled		Minority Subtotal		Disabled Subtotal	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
<u>Managerial</u>																
Professional																
Technical																
Clerical																
Sales																
Service																
Labor																
On-Job Trainees																
Apprentice																
Skilled Craft*																
Subtotal																

Contact the King County Procurement and Contract Services Division at (206) 296-4210 or the King County M/WBE and Contract Compliance Division (206) 684-1330 if you have any questions concerning completion of this form.



ATTACHMENT E

Affidavit and Certificate of Compliance

**with King County Code Chapter 12.16, Discrimination and Affirmative Action
in Employment by Contractors, Subcontractors and Vendors**

The undersigned, being first duly sworn, on oath states, s/he is authorized by the Contractor, and on the Contractor's behalf, affirms and certifies as follows:

Definitions: "Contractor" shall mean any contractor, vendor or Contractor who supplies goods and/or services. "Contract" shall mean any contract, purchase order or agreement with King County Government, hereinafter called the County.

A. Contractor recognizes that discrimination in employment is prohibited by federal, state and local laws. Contractor recognizes that in addition to refraining from discrimination, affirmative action is required to provide equal employment opportunity. Contractor further recognizes that this Affidavit establishes minimum requirements for affirmative action and fair employment practices and implements the basic nondiscrimination provisions of the general contract specifications as applied to service, Contractor, and vendor contracts exceeding \$25,000, or public work contracts exceeding \$10,000. Contractor herein agrees that this Affidavit is incorporated as an addendum to its general contract, and recognizes that failure to comply with these requirements may constitute grounds for application of sanctions as set forth in the general specifications, King County Code Chapter 12.16 ("Chapter") and this Affidavit. PROVIDED FURTHER, that in lieu of this Affidavit, the Executive may accept a statement pledging adherence to an existing contractor affirmative action plan where the provisions of the plan are found by the Executive to substantially fulfill the requirements of the Chapter.

B. Contractor shall give notice to their supervisors and employees of the requirements for affirmative action to be undertaken prior to the commencement of work.

C. This person has been designated to represent the Contractor and to be responsible for securing compliance with and for reporting on the affirmative actions taken:

D. Contractor will cooperate fully the M/WBE and Contract Compliance Division and appropriate County agents while making every reasonable "good faith" effort to comply with the affirmative action and nondiscrimination requirements set forth in this Affidavit and in King County Code Chapter 12.16.

E. **Reports:** The Contractor agrees to complete and submit as required such additional reports and records that may be necessary to determine compliance with the Affidavit and to confer with the County Compliance Officer at such times as the County shall deem necessary. The information required by the Chapter includes but is not limited to the following reports and records:

1. Personnel Inventory Report: This report shall include a breakdown of the employer workforce showing race, sex and handicapped and other minority data.

2. Monthly Utilization Report: This report shall apply to construction contractors and subcontractors and shall provide the number of hours of employment for all employees, including minority, women and disabled employees by craft and category.

3. Statement from Union or Worker Referral Agency: This statement affirms that the signee's organization has no practices and policies which discriminate on the basis of race, color, creed, religion, sex, age, marital status, sexual orientation, nationality or the presence of sensory, mental or physical disability.

The information required in this section shall be submitted on forms provided by the County unless otherwise specified.

F. Subcontractors: For public works projects and contracts over ten thousand dollars (\$10,000) the prime contractor shall be required to submit to the County, along with its qualifying documents under the Chapter, employment profiles, Affidavits and Certificates of Compliance, Reports and Union Statements from its subcontractors in the same manner as these are required of the prime contractor. Reporting requirements of the prime contractor during the contract period will apply equally to all subcontractors.

G. Employment Goals for Minorities, Women and Persons with Disabilities: No specific levels of utilization of minorities and women in the workforce of the Contractor shall be required, and the Contractor is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices. Notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents shall continue to apply.

H. Affirmative Action Measures: Contractor agrees to implement and/or maintain reasonable good faith efforts to comply with King County Code Chapter 12.16. The evaluation of a contractor's compliance with the Chapter shall be based upon the contractor's effort to achieve maximum results from its affirmative action measures. The Contractor shall document these efforts and shall implement affirmative action steps at least as extensive as the following:

1. Policy Dissemination: Internal and external dissemination of the contractor's equal employment opportunity policy; posting of nondiscrimination policies and of the requirement of the Chapter on bulletin boards clearly visible to all employees; notification to each subcontractor, labor union or representative of workers with which there is a collective bargaining agreement or other contract, subcontract, or understanding of the contractor's commitments under the Chapter. Inclusion of the equal

opportunity policy in advertising in the news media and elsewhere.

2. **Recruiting:** Adopt and implement recruitment procedures designed to increase the representation of women, minorities and persons with disabilities in the pool of applicants for employment: including, but not limited to establishing and maintaining a current list of minority, women and disabled recruitment sources, providing these sources written notification of employment opportunities and advertising vacant positions in newspapers and periodicals which have minority, women and/or disabled readership.
3. **Self-Assessment and Test Validation:** Review of all employment policies and procedures, including tests, recruitment, hiring and training practices and policies, performance evaluations, seniority policies and practices, job classifications and job assignments to assure that they do not discriminate against, or have a discriminatory impact on, minorities, women and persons with disabilities and validate all tests and other selection requirements where there is an obligation to do so under state or federal law.
4. **Record Referrals:** Maintain a current file of applications of each minority, women and persons with disabilities who are applicants or referrals for employment indicating what action was taken with respect to each such individual and the reasons therefor. Contact these people when an opening exists for which they may be qualified. Names may be removed from the file after twelve months have elapsed from their last application or referral.
5. **Notice to Unions:** Provide notice to labor unions of the contractor's nondiscrimination and affirmative action obligations pursuant to King County Code Chapter 12.16. Contractors shall also notify the M/WBE and Contract Compliance Division if labor unions fail to comply with the nondiscrimination or affirmative provisions.
6. **Supervisors:** Ensure that all supervisory personnel understand and are directed to adhere to and implement the nondiscrimination and affirmative action obligations of the contractor under King County Code Chapter 12.16. Such direction shall include, but not be limited to, adherence to, and achievement of, affirmative action policies in performance appraisals of supervisory personnel.
7. **Employee Training:** When reasonable, develop on-the-job training opportunities which expressly include minorities, women, and persons with disabilities and sponsor and/or utilize, training/educational opportunities for the advancement of women, minorities and persons with disabilities employed by the contractor, subject to acceptance by the county.
8. **Responsible Person:** Designate an employee who shall have the responsibility for implementation of the Contractor's affirmative action measures.
9. **Progress Reporting:** Prepare as part of the affirmative action plan an analysis and report on the progress made toward eliminating the underrepresentation of minorities, women, and persons with disabilities in the contractor's workforce on an annual basis.

- I. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital

status, sexual orientation, age, or the presence of any sensory, mental or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Contract.

- J. Contractor agrees to provide reasonable access upon request to the premises of all places of business and employment, relative to work undertaken in this Contract, and to records, files, information and employees in connection therewith, to the M/WBE and Contract Compliance Division or agent for purposes of reviewing compliance with the provisions of this Affidavit and agrees to cooperate in any compliance review.
- K. Should the M/WBE and Contract Compliance Division find, upon complaint investigation or review, the Contractor not to be in good faith compliance with the provisions contained in this Affidavit, it shall notify the County and Contractor in writing of the finding fully describing the basis of non-compliance. Contractor may request withdrawal of such notice of noncompliance at such time as the compliance office has notified in writing the Contractor and the County that the noncompliance has been resolved.
- L. The Contractor agrees that any violation of any term of this Affidavit, including reporting requirements, shall be deemed a violation of King County Code Chapter 12.16. Any such violation shall be further deemed a breach of a material provision of the Contract between the County and the Contractor. Such breach may be grounds for implementation of any sanctions provided for in the Chapter, including but not limited to, cancellation, termination or suspension, in whole or part, of the Contractor by the County; liquidated damages; or disqualification of the Contractor PROVIDED, that the implementation of any sanctions is subject to the notice and hearing provisions of King County Code Chapter 12.16.110.

Contractor: _____
Company Name Street Address City State Zip

I have read and understood the foregoing; and am authorized on behalf of the Contractor to agree to the terms and conditions of this and Affidavit and Certificate of Compliance and therefore, execute the same.

Authorized Signer: _____
Name (type or print) Title Phone Signature

VALID ONLY IF NOTARIZED

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 2000.

(Signature of notary public)

(Printed name of notary public)

Notary Public in and of the state of _____

My appointment expires:

ATTACHMENT G

**IFB 00-031
CURRENT OR FORMER KING COUNTY EMPLOYEE DISCLOSURE FORM**

(Complete if applicable. If not, mark N/A "Not Applicable")

1. Identify current or former employees of the County involved in the preparation of this Bid or the anticipated performance of the work or services to be provided on this contract.

Name of current or former Employee: _____

Date of Last Employment with the County : _____

2. The Contractor is responsible for notifying the County's project manager or contract administrator of current or former County employees who become involved in the contract any time during the term of the contract:

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____